

Federal Communications Commission

DA 04-2132

JUL 20 6 35 AM '04

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Yuba City and Lincoln, California)

)
)
)
)
)
)

MB Docket No. 04-24
RM-10846

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 14, 2004

Released: July 20, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice")¹ issued in response to a petition for rule making filed on behalf of First Broadcasting Investment Partners LLC, ("Petitioner"), the licensee of Station KXCL(FM) ("KXCL"), Channel 280B1, Yuba City, California. Petitioner requests that Channel 280B1 be downgraded to Channel 280A and that Channel 280A be reallocated to Lincoln, California, as that community's first local aural transmission service. Petitioner filed comments affirming the foregoing proposal and stating its intent to implement its proposal if the Commission reallocates Channel 280A to Lincoln. No other party has filed comments or a counterproposal in this proceeding. For the reasons stated below, we grant Petitioner's proposal.

2. Petitioner filed the foregoing proposal pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.³

3. We believe that the public interest would be served by downgrading Channel 280B1 to Channel 280A and reallocating Channel 280A from Yuba City, California, to Lincoln, California, (2000 U.S. Census population of 11,205 persons), because Lincoln would receive its first local aural transmission service. The reallocation of Channel 280A to Lincoln would not deprive Yuba City of its sole local aural transmission outlet because Yuba City (2000 U.S. Census population of 36,758 persons) would continue to be served by two fulltime AM stations.⁴ Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station KXCL to specify operation on Channel 280A at Lincoln, California.

¹ *Yuba City and Lincoln, California*, 19 FCC Rcd 2085 (MB 2004).

² The petition for rule making and an amendment thereto were filed by Harlan Communications, Inc., the former licensee of Station KXCL(FM). Petitioner is the current licensee of that station and has affirmed its interest in providing a first local service to Lincoln as stated in the petition.

³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁴ Specifically, Yuba City will retain local service from AM Stations KOBQ and KUBA.

4. Channel 280A can be allotted to Lincoln, California, in conformity with the technical requirements of the Commission's Rules, utilizing Petitioner's requested site at the coordinates of 38-54-45 North Latitude and 121-23-20 West Longitude, with a site restriction of 8.7 kilometers (5.4 miles) west of Lincoln, California.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 7, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Lincoln, California	280A
Yuba City, California	-----

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of First Broadcasting Investment partners, LLC, for Station KXCL(FM), Yuba City, California, IS MODIFIED to specify operation on Channel 280A at Lincoln, California, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to Sections 1.1104(1)(k) and (3)(l) of the Commission's Rules, any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, First Broadcasting Investment Partners, LLC, licensee of Station KXCL(FM), is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for Station KXCL(FM), Channel 280B1, Yuba City, California, to Channel 280A, Lincoln, California, at the time its Form 301 application is submitted.

8. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

9. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief, Audio Division
Media Bureau**